

CLEAN AIR ACT FINAL STATEMENT OF CONFORMITY
For Permit Application No. 2004-01167-OD
by the New Jersey Department of Transportation Office of Maritime Resources

The 1990 Clean Air Act Amendments include the provision of Federal Conformity, which is a regulation that ensures that Federal Actions (funding, permitting, licensing, etc.) conform with a non-attainment area's State Implementation Plan (SIP) thus not adversely impacting the area's progress toward attaining the National Ambient Air Quality Standards (NAAQS). The Federal Action in this case is initiated by the permit application by the New Jersey Department of Transportation Office of Maritime Resources (NJDOT/OMR) for dredging within the existing consolidated Port Jersey Channel (Contract 3) in the Cities of Bayonne and Jersey City, Hudson County, New Jersey. The construction activities associated with this project occur within the State of New Jersey. Dredged material transit will occur in both New York and New Jersey waters. Transit emissions, which occur in both states, are de minimis in New York.

There are two types of Federal Conformity: 1) Transportation Conformity and 2) General Conformity (GC). Transportation Conformity does not apply to this project because it is not funded by the Federal Highway Administration and does not impact the onroad transportation system. However, this project does trigger a GC review because of the permit application for new dredging (Federal Action).

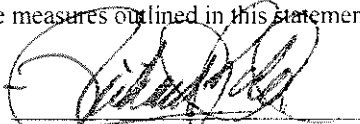
The New York New Jersey Long Island Non Attainment area (where the project is located) is classified as a severe nonattainment area for ozone (precursors of oxides of nitrogen (NOx) and volatile organic compounds) and a maintenance area for carbon monoxide (CO). The emissions analysis predicts that NOx emissions in 2006 and 2007 will be above the de minimis level of 25 tons per year, which is the trigger level for performing a conformity determination in severe ozone nonattainment areas. The project will not exceed the maintenance area 100 tons per year de minimis level for CO.

Based on a review of the emissions analysis (summarized in Dredge and Dredged Material Transport Emission Estimates and Statement of General Conformity for the New Jersey Department of Transportation Office of Maritime Resources, Port Jersey Channel Deepening Project, June 2005 (Attachment 1)) provided to the U.S. Army Corps of Engineers, New York District (NYD) by the Port Authority of New York and New Jersey (PANYNJ), and the "Port Authority of New York and New Jersey 2004 Tugboat Emission Reduction Program for the NYNJLI Ozone Nonattainment Area", prepared by M.J. Bradley & Associates, Inc., dated April 25, 2005 (Attachment 2). I have determined that this project will meet the General Conformity requirements as stated in 40 CFR 93.150-160 with the applicable air quality impacts generated as a result of the project construction to be fully offset. These offsets (noted below) will be contemporaneous with project emissions.

In order to offset project emissions three local tugboats shall be repowered with lower emission engines. The original engines removed from each tugboat will be destroyed, consistent with the United States Environmental Protection Agency - Region 2 guidelines. No construction work may begin until the Buchanan 12 (owned by Buchanan Marine, L.P.), the Dorothy J (owned by Henry Marine Service, Inc.) and the Robert IV (Owned by Henry Marine Service, Inc.) are fully repowered and operational within the New York New Jersey Long Island Non Attainment area. These tugboats will be operational within the nonattainment area at least 90% of the time for at least the next 10 years. NJDOT/OMR will submit reports to the regulatory agencies on a biannual basis, documenting the number of days each repowered tugboat is operational within the nonattainment area. If any of these tugboats becomes inoperable during the life of the project, other tugboats will be repowered or other measures acceptable by the regulatory agencies will be implemented. Any Department of the Army permit issued for the subject project will require the above noted measures to offset project emissions.

In summary, conformity for NOx will be achieved through offsetting of the project's emissions. I have determined that this project can meet General Conformity provided that the impacts generated as a result of dredging and dredged material management activities are reduced through the measures outlined in this statement.

24 August 2005
Date


Richard J. Polo, Jr.
Colonel, U.S. Army
District Engineer